

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

MSTADI WINSTON,

Plaintiff,

v.

ORDER

13-cv-750-jdp

CAROLYN W. COLVIN,
Commissioner of the Social
Security Administration,

Defendant.

Plaintiff Mstadi Winston seeks judicial review of a final decision of defendant Carolyn W. Colvin, the Commissioner of Social Security, finding him not disabled within the meaning on the Social Security Act. The court held a hearing on plaintiff's motion for summary judgment on February 10, 2015. For reasons stated more fully at the hearing,¹ the court will grant plaintiff's motion and remand the case to the Commissioner for further proceedings.

The ALJ's decision discounted the opinion of treating physician Dr. Prince because he believed that Dr. Prince's opinion was not supported by the evidence of record. But the ALJ did not point out any evidence that was inconsistent with Dr. Prince's opinion that plaintiff was unable to sit, stand, or walk for periods long enough to allow him to work. Physician notes that plaintiff had a normal gait and normal strength do not provide a reason to discount Dr. Prince's opinion, because plaintiff's problem was pain, not weakness. The most significant problem with the ALJ's decision was that he inaccurately paraphrased Dr. Tylicki's assessment of the cervical MRI as showing "very mild" degeneration. In fact, the evidence of record, including Dr. Tylicki's assessment, showed that plaintiff had a severe cervical lesion and degenerative disease in his

¹ The court indicated at the hearing that a transcript of the hearing would be made part of the judgment. However, to expedite resolution of this case, the court's instructions on remand are stated in this order.

lower back. In sum, the ALJ did not base his assessment of Dr. Prince's credibility on an accurate appraisal of the evidence of record, but instead cherry-picked evidence that the ALJ construed to be sympathetic to an RFC that allowed limited sedentary work.

On remand, the ALJ must:

- Accurately assess the medical imaging evidence, which is described by Dr. Prince, Dr. Tylicki, and Dr. Beykovsky.
- Explain specifically how any of plaintiff's daily activities, including attending college or volunteering for the Special Olympics, are inconsistent with the limitations found by Dr. Prince.
- Specifically identify how any of the evidence of record relied on by the ALJ to discount Dr. Prince is inconsistent with Dr. Prince's assessment of plaintiff's limitations.
- If Dr. Prince's opinion is not entitled to controlling weight, consider the pertinent factors in 20 C.F.R. § 404.1527(c), which should in this case include the medical specialty and the treatment history with plaintiff for each of the providers whose opinions the ALJ considers.

This order does not mandate that Dr. Prince's opinions be given any particular weight, nor does it mandate a finding of disability.

IT IS ORDERED that the decision of defendant Carolyn W. Colvin, Commissioner of Social Security, denying plaintiff Mstadi Winston's application for disability benefits is REVERSED AND REMANDED. The clerk of court is directed to enter judgment for plaintiff and close this case.

Entered February 10, 2015.

BY THE COURT:

/s/

JAMES D. PETERSON
District Judge